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FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Public Notice)	CC Docket No. 00-175
)	
Biennial Review 2000)	FCC 00-346
Reply Comments)	

**REPLY COMMENTS OF INDEPENDENT TELEPHONE &
TELECOMMUNICATIONS ALLIANCE**

The Independent Telephone & Telecommunications Alliance ("ITTA") hereby submits the following reply comments in the matter of the Biennial Review 2000 Staff Report.¹ The reply comments are listed in separate sections corresponding to the headings in the Staff Report, each beginning on a separate page.

As an initial matter, ITTA opposes the requests by some commenters for the Commission to *increase* regulation in this proceeding. These inappropriate proposals for additional regulation are outside the scope of the Commission's Biennial Review Process.² While ITTA welcomes the Commission's efforts to eliminate or modify outdated rules to reduce unnecessary regulatory burdens, it should consider these requests for additional regulation, if at all, in a different proceeding.

¹ Public Notice, *Biennial Review 2000 Staff Report Released*, FCC 00-346 (rel. Sept. 19, 2000) ("The Staff Report").

² See, e.g., Comments of GSA at 11-12 (collocation requirements).

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I. Part 1 -- Practice and Procedure

ITTA strongly supports the United States Telecom Association (USTA) proposal for the Commission to modify its rules to require Commission action on petitions for reconsideration and petitions for waiver within a fixed time period, and to deem such petitions granted if the Commission fails to act within that period.³ All too often, such petitions filed by midsize and smaller carriers languish at the Commission, leaving these carriers without relief and without the ability to seek additional appellate review of the Commission's decisions. Such a modification of the Commission's rules would establish a finite process that would, for the first time, commit the Commission to act within a reasonable time either to grant or to deny these carrier's petitions.

The current rule leads to unnecessary delay and prolonged uncertainty for carriers and consumers while the Commission's attention is understandably focused on other issues that affect far more consumers. Alaska Communications Systems, Inc. (ACS) for example, has been waiting for almost two and a half years for the Commission to act on its request for limited forms of interstate pricing flexibility – significantly less pricing flexibility than has already been granted to larger, price cap carriers.⁴ The Commission's protracted failure to act on this petition has harmed the development of real competition in the Anchorage market as ACS has been unable to respond to the offerings of competing carriers in the market, and other carriers, therefore, have not been subject to the downward pressure on rates this additional competition would have provided.

³ Comments of the United States Telecom Association at 6 (filed Oct. 10, 2000).

⁴ See ATU Telecommunications Waiver Request, CCB/CPD 98-40 (filed June 22, 1998). ATU Telecommunications, formerly owned by the Municipality of Anchorage and a provider of local telephone service for more than 80 years, is now known as Alaska Communications Systems.

ITTA suggests that the Commission adopt a significantly shorter, 90-day deadline for action on petitions filed by midsize carriers than USTA proposes for carriers generally. ITTA members are substantially smaller than the large Bell Operating Companies and, in general, the issues raised by their petitions are similarly less complicated. In addition, ITTA members have fewer Washington resources available to devote to protracted lobbying and advocacy efforts before the Commission. A full year, as proposed by USTA, is much more time than is necessary for the Commission to act on relief requested by midsize and small companies.

In passing H.R. 3850 in this session of Congress, the House of Representatives recently registered its agreement that the Commission should act on petitions filed by two-percent companies within 90 days, and that these petitions should be deemed granted if the Commission fails to act.⁵ Changing the default rule in this manner, as also proposed by USTA, would not limit the scope of the Commission's review of these petitions in any way, and would not deprive the Commission of the opportunity to review or deny the relief sought in any particular petition.

⁵ See H.R. 3850, 106th Cong., 2d Sess. (2000), Section 6(a) (as passed by the House of Representatives, Oct. 3, 2000) ("Within 90 days after receiving from a two percent carrier a petition for reconsideration, the Commission shall issue an order granting or denying such petition. If the Commission fails to act . . . within this 90-day period, the relief . . . shall be deemed granted.").

II. Part 43 – Reports of Communications Common Carriers and Certain Affiliates Part 64, Subpart I – Allocation of Costs

The General Services Administration ("GSA") opposes Commission plans to reduce the accounting and reporting burdens related to cost allocation manual (CAM) filing and ARMIS reporting.⁶ GSA not only believes that that such requirements "prevent incumbent LECs from exploiting their market power,"⁷ it further "urges the Commission to consider enhancing" reporting rules such as ARMIS.⁸

ITTA opposes GSA's proposal. The Commission's Biennial Review is a not the proper forum within which any party, should seek additional regulation. The Biennial Review is a process for modifying and repealing regulations that are no longer in the public interest. If GSA seeks to encourage additional regulation, it should do so in a different regulatory proceeding.

To the contrary, ITTA congratulates the Commission for moving to reduce the accounting and reporting requirements it imposes on midsize and smaller carriers, and looks forward to working with the Commission and the Common Carrier Bureau to effectively reduce unnecessary accounting burdens.⁹ The Commission historically has differentiated between different classes of carriers in imposing ARMIS and CAM filing requirements, and there is ample justification to continue to do so, based on the size of the carriers and the relative burdens such requirements impose. The Commission's efforts to reduce accounting and reporting

⁶ Comments of the General Services Administration at 4, 18 (filed Oct. 10, 2000).

⁷ *Id.* at 8, 17.

⁸ *Id.* at 8.

⁹ See 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and Phase 3, CC Docket No. 00-199, Notice of Proposed Rulemaking, FCC 00-364 (rel. Oct. 18, 2000).

requirements applicable to midsize carriers will provide critically-needed relief, particularly to those carriers that, through regulatory "bracket creep," are becoming subject to cost allocation manual (CAM) filing and ARMIS reporting requirements for the first time.

Forcing carriers, especially mid-size and smaller carriers, to spend significant amounts of time and money to file CAMs does not prevent improper cost allocations. The Commission has never required these filings for midsize and smaller carriers in the past, and there is no justification for extending CAM filing requirements to these carriers for the first time now. Moreover, the U.S. House of Representatives has indicated its support for eliminating these requirements entirely for midsize carriers, even as it acknowledged that the Commission may nevertheless continue to enforce its cost allocation rules to prevent anticompetitive activities of the type GSA apparently fears. The Staff Report correctly concluded that "Part 32 may impose more burdensome information requirements on incumbent LECs than needed in light of the changing competitive landscape,"¹⁰ and the Commission should continue reducing burdens on ITTA members that impose unnecessary costs.

The Commission and the states have ample authority to require information from carriers whenever they need. In an increasingly competitive environment, the Commission should move toward periodic, focused data requests that suit a particular purpose rather than saddle midsize carriers with generic reporting burdens that were designed primarily with larger carriers in mind.

¹⁰ Staff Report at 71-72.

III. Part 64, Subpart T – Separate Affiliate Requirements

WorldCom's comments indicate support for the requirement that independent incumbent LECs provide interexchange service through a separate affiliate.¹¹ WorldCom's position on this issue is understandable -- such a requirement effectively hobbles WorldCom's competition by imposing restrictions and costs.

ITTA stands by its comments urging the Commission to repeal the separate affiliate rules due to the competitive harm they cause to midsize ILECs. As USTA points out, the Staff Report recommendation to conduct a "triennial" review is without explanation.¹² Similarly, as Sprint points out, under Section 272(f)(1) of the Communications Act, even the BOCs' separate subsidiary requirement is scheduled to sunset three years after they begin to offer in-region interLATA services.¹³ For indepent LECs, the rule has been in place for three years already and, accordingly, should be eliminated now.

¹¹ Comments of WorldCom, Inc. at 4 (filed Oct. 10, 2000).

¹² USTA notes this recommendation makes "no sense." USTA Comments at 29.

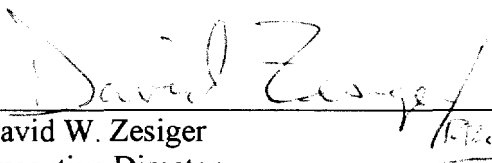
¹³ Comments of Sprint Corp. at 4.

IV. Conclusion


ITTA urges the Commission to proceed rapidly in this Biennial Review period to eliminate the outdated regulatory burdens its rules impose on midsize and smaller carriers, as described in its Comments and the se Reply Comments in this proceeding.

Respectfully submitted,

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